

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION**

In re	)	
	)	
PAUL FRANCIS,	)	CHAPTER 7
	)	CASE NO. 17-12708-FJB
Debtor.	)	
	)	
JOHN O. DESMOND, CHAPTER 7	)	
TRUSTEE FOR THE ESTATE OF	)	
PAUL FRANCIS,	)	
	)	ADVERSARY PROCEEDING
Plaintiff	)	NO. 18-01041-FJB
v.	)	
	)	
RUTH FRANCIS,	)	
	)	
Defendant.	)	
	)	

**[PROPOSED] JOINT DISCOVERY PLAN AND RULE 26(f) CERTIFICATION**

Pursuant to Fed. R. Civ. P. 26(f), as made applicable to this proceeding by Fed. R. Bankr. P. 7026, and this Court's Pretrial Order dated July 3, 2018, the Parties present the following joint discovery plan for the Court's consideration and approval in connection with the above-captioned matter.

## 1. Certification of Rule 26(f) Conference of Parties

The undersigned counsel for the Parties certify that they conferred pursuant to Rule 26(f) on July 24, 2018 for the purpose of discussing, among other things, those items identified in the Court's July 3, 2018 Pretrial Order.

**2. Amending Pleadings and Joining Parties**

The Parties agree to amend pleadings and join other parties within fourteen (14) days of the Court's ruling on the Trustee's Motion for Summary Judgment.

**3. Discovery**

The Parties intend to undertake discovery in this matter as permitted by the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, and the Local Rules of the Bankruptcy Court.

**A. Initial Disclosures**

The Parties agree to exchange initial disclosures pursuant to Rule 26(a)(1) no later than twenty-one (21) days after the Court's ruling on the Trustee's Motion for Summary Judgment.

**B. Subjects on Which Discovery Will Be Needed**

The Parties agree that discovery should not be limited to any particular issue and agree that discovery should not be phased. The Parties also agree that discovery will be needed on, but not limited to, the following subjects:

- (a) All facts underlying the Trustee's allegations in the Adversary Complaint; and
- (b) All facts underlying the Defendant's responses to the allegations in the Trustee's Adversary Complaint and Defendant's affirmative defenses;

**C. Joint Proposed Discovery and Pre-Trial Schedule**

- (a) Deadline for the completion of all party and non-party fact discovery: Ninety (90) days from the date of the Court's ruling on the Trustee's Motion for Summary Judgment
- (b) Joint Pretrial Memorandum. The Parties agree to filing the Joint Pretrial Memorandum within thirty (30) days after the conclusion of

fact discovery. The Joint Pretrial Memorandum shall include those subject matters identified in paragraph 14 of the Court's July 3, 2018 Pretrial Order.

**D. Electronically Stored Information**

The Parties propose the following procedures for the preservation, disclosure and management of electronically stored information:

- (a) In their Rule 26(a) initial disclosures, the Parties shall comply with Fed. R. Civ. P. 26(a)(1)(A)(ii) insofar as Fed. R. Civ. P. 26(a)(1)(A)(ii) applies to electronically stored information.
- (b) In the event that any information that is to be produced is stored solely in electronic form, parties shall produce such information in its electronic form. Paper documents shall be produced in paper form, or in such other form and medium as is mutually agreeable to the parties.
- (c) The Parties shall take reasonable steps to preserve electronically stored information, consistent with Fed. R. Civ. P. 37(e).

**E. Issues Concerning Claims of Privilege or Protection of Trial Preparation Materials**

The Parties propose the following procedures in order to minimize the risk of waiver of privilege or work-product protection, including procedures for asserting privilege claims after production: Claims of privilege after production will be governed by Fed. R. Civ. P. 26(b)(5)(B).

**F. Consent to Final Order**

The Parties agree that this Court has authority to enter a final order in this proceeding and consent to such entry.

**G. Further Orders**

Pursuant to Fed. R. Civ. P. 26(f)(3)(F), the Parties do not request that the Court enter any other orders at this time.

**H. Estimated time for Trial**

The Parties anticipate a trial of one day.

**JOHN O. DESMOND, CHAPTER 7  
TRUSTEE OF THE ESTATE OF  
WARREN I. GREEN**

**By his attorneys,**

/s/ Anthony R. Leone  
Thomas S. Vangel - BBO #552386  
Anthony R. Leone - BBO #681760  
Murtha Cullina LLP  
99 High Street  
Boston, MA 02110-2320  
Telephone: 617.457.4000  
Facsimile: 617.482.3868  
tvangel@murthalaw.com  
aleone@murthalaw.com

**RUTH FRANCIS**

**By her attorney,**

/s/ Carmenelisa Perez-Kudzma  
Carmenelisa Perez-Kudzma – BBO #  
633520  
413 Boston Post Road  
Weston, MA 02493  
Telephone: 617.523.7474  
Facsimile: 617.523.7484  
carmenelisa@pklaw.law

Date: August 7, 2018

**CERTIFICATE OF SERVICE**

I, Anthony R. Leone, hereby certify that this document was filed through the Court's ECF System and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Anthony R. Leone